

**DECLARATION OF DANIEL S. ALTER, ESQ.**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
ESBIN & ALTER, LLP,

*Plaintiff,*

Docket No.

-- against --

PAUL ZAPPIER and ADVANCED TRADE  
SETTLEMENT, LLC,

*Defendants.*  
-----X

**DECLARATION OF DANIEL S. ALTER, ESQ. IN SUPPORT OF  
PLAINTIFF'S SHOW CAUSE MOTION FOR EXPEDITED DISCOVERY**

DANIEL S. ALTER, ESQ., pursuant to 28 U.S.C. § 1746, declares under the penalty of perjury that the following statement is true and correct and based upon personal knowledge:

1. I am the attorney for Esbin & Alter, LLP ("E&A"), plaintiff in the above-captioned matter, and I make this declaration in support of E&A's motion by order to show cause for expedited discovery.
2. E&A brings this motion for expedited discovery by order to show cause because the ongoing copyright infringement and misappropriation of E&A's other intellectual property by defendant Paul Zappier ("Zappier") alleged in the complaint is inflicting irreparable injury on E&A. E&A must act quickly to halt any increase in that harm, and E&A intends to seek a preliminary injunction to achieve that goal. Before it can assemble a motion for interim relief, however, E&A requires expedited discovery of additional facts establishing Zappier's misconduct.

3. E&A has not previously sought the requested relief from this Court or from any other court.

4. Annexed hereto as Exhibit A is E&A's proposed First Set of Interrogatories and Requests for Documents.

Dated: January 11, 2008  
New York, New York

By:

  
DANIEL S. ALTER, ESQ.



DANIEL S. ALTER, Esq. (DA-7158)  
ALTER & ALTER LLP  
300 East 42nd Street, 10th Floor  
New York, NY 10017  
UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
ESBIN & ALTER, LLP,

*Plaintiff,*

Docket No.

-- against --

PAUL ZAPPIER and ADVANCED TRADE  
SETTLEMENT, LLC,

*Defendants.*  
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**PLAINTIFF ESBIN & ALTER LLP'S SET OF INTERROGATORIES  
AND REQUEST FOR DOCUMENTS**

**PLEASE TAKE NOTICE** that pursuant to Rule 26 of the Federal Rule of Civil Procedure and the Order of the Court entered in the above-captioned action, plaintiff Esbin & Alter, LLP ("E&A"), by its attorneys Alter & Alter, LLP, hereby requests that defendants Paul Zappier ("Zappier") and Advanced Trade Settlement, LLC ("ATS") serve sworn answers to each of the interrogatories set forth below, and produce for inspection and copying each document that is responsive to the document requests set forth below, at 300 East 42<sup>nd</sup> Street, New York, New York, on or before such time and date as designated by the Court.

**DEFINITIONS**

In connection with these interrogatories and request for the production of documents:

A. "Document" or "documents" shall mean any tangible thing upon which any expression, communication or representation, has been recorded by any means, including without limitation, handwriting, printing, photostatting, photographing, imaging, magnetic

impulse, or mechanical or electronic recording, and any nonidentical copies (whether different from the original because of underlining, editing marks, notes made or attached to such copy, or otherwise), including without limitation, working papers, preliminary, intermediate or final drafts, correspondence, memoranda, notes reflecting telephone conversations, photographs, slides, audio or video tape recordings, electronic mail, microfilm, microfiche, computer tape, computer disk, computer print-out, computer card, charts, diaries, desk calendars, appointment books, financial statements, invoices, and all other data compilations from which information can be obtained or translated, if necessary, into reasonably usable form, whether in draft or otherwise, whether sent or received or neither, whether or not known by defendants to be still in existence, including without limitation, the original, a copy (if the original is not available), any nonidentical copy as well as all underlying, supporting preparatory materials and drafts thereof.

B. "Relating to" shall be construed to mean and include "evidencing," "referring to," "reflecting," "involving," "concerning," "summarizing," "constituting," "consisting of," "evaluating," "analyzing," "containing," "mentioning," "showing," "discussing," "describing," "alluding to," "memorializing," and "commenting upon."

C. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the specification all responses which might otherwise be construed to be outside its scope. "Each" shall be construed to include the word "every" and "every" shall be construed to include the word "any."

D. "Person" shall mean any natural person or any business, legal or governmental entity or association.

E. "E&A" shall mean the plaintiff in this action and any principal or employee associated therewith.

F. "Zappier" shall mean defendant Paul Zappier and "ATS" shall mean defendant Advanced Trade Settlement, LLC. The terms "Zappier" and "ATS" shall also be considered interchangeable, and any information or document that pertains to one shall be considered to contain responsive material that pertains to the other.

G. "MATTERS Program" shall have the same meaning assigned to that term in the complaint filed in this action.

H. "ATS Software" shall have the same meaning assigned to that term in the complaint filed in this action.

I. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, whenever necessary to bring within scope of the specification all responses which might otherwise be construed to be outside its scope.

J. A plural noun shall be construed as a plural noun, whenever necessary to bring within the scope of the specifications all responses which might otherwise be construed to be outside its scope.

K. Definitions provided herein apply to any grammatical variants of the term or phrase defined.

### INSTRUCTIONS

A. When answering the following interrogatories, please set forth each interrogatory in full before each answer. Answer each interrogatory separately. When an interrogatory has several parts, answer each part separately. If you cannot give a complete answer, answer as much of the interrogatory as you can. State why you cannot give a complete answer. If any interrogatory is objected to, state the nature of the objection. If a claim of privilege is made, state the grounds for the claim.

B. For all documents produced subject to this request, indicate the paragraph(s) in this request to which each documents corresponds.

C. If any document is withheld from production on the grounds of privilege or work product, identify each such document by author(s) or preparer(s), recipient(s), date, subject matter(s), nature or privilege claimed, and paragraph(s) of this request to which the document corresponds.

D. In the event that any document falling within this request has been destroyed, discarded or is otherwise no longer in plaintiff's possession, custody or control, that document is to be identified, as follows: (a) author(s) or prepare(s); (b) addressee(s); (c) indicated or blind copies; (d) date; (e) subject matter(s); (f) number of pages; (g) attachments or appendices; (h) all persons to whom distributed, shown or explained; (I) date of destruction or other disposition; (j) manner of destruction or other disposition; (k) reasons for destruction or other disposition; (l) persons authorizing destruction or other disposition; (m) person(s) destroying or disposing of the document; and, (n) the paragraph(s) in this request to which the document corresponds.

E. Pursuant to the Federal Rules of Civil Procedure, this request shall be deemed continuing so as to require further and supplemental production if defendants obtains additional documents between the time of initial production and time of hearing or trial.

F. Unless stated otherwise, the relevant period for which information is sought by these interrogatories and documents requests is January 1, 2004 to date.

#### **INTERROGATORIES**

1. Please identify and describe any agreements, contracts, arrangements and employment, consulting, or other commercial relationships between E&A and Zappier.



2. Please identify all persons with whom Zappier consulted or collaborated in designing, creating, and/or programming the MATTERS program, and/or any version thereof.
3. Please identify all persons who are members of, employed by, or consultants for ATS, and describe their responsibilities within the company.
4. Please identify all persons or business entities with which Zappier consulted or collaborated with in organizing ATS.
5. Please identify all persons or business entities with which Zappier, ATS, or any officer or employee thereof consulted or collaborated with in designing and/or programming the ATS Software and/or any version thereof.
6. Please identify all persons and/or business entities that have invested in ATS, either by contributing capital or in kind services and describe their economic stake in the company.
7. Please identify all persons and/or business entities with which Zappier and/or ATS (or any member or employee thereof) have communicated in connection with the marketing, sale, and/or licensing of the ATS Software.

#### **REQUESTS FOR DOCUMENTS**

1. All documents identified in, referred to by, and/or relied upon in drafting the response to Interrogatory No. 1, including but not limited to all documents establishing, defining, and describing Zappier's business relationship with E&A, his compensation, and ownership rights relating to intellectual property arising from that relationship.
2. Copies of object and source code for each and every version of the MATTERS program from January 1, 2004 to the present.

3. All documents discussing, examining, analyzing, drafting, editing, evaluating, or otherwise related to the design of the MATTERS Program.

4. All correspondence, by electronic mail, conventional mail, memorandum, or otherwise regarding the MATTERS Program.

5. All documents used in designing the MATTERS Program.

6. Copies of object and source code for each and every version of the ATS Software from its first stages of development to the present.

7. All documents discussing, examining, analyzing, drafting, editing, evaluating, or otherwise related to the design of the ATS Software.

8. All correspondence, by electronic mail, conventional mail, memorandum, or otherwise regarding the ATS Software

9. All documents used in designing the ATS Software.

10. All documents, including but not limited to demonstrative programs, videos, literature, print ads, contracts, or licenses, used as marketing materials in connection with the sale and/or distribution of the ATS Software.

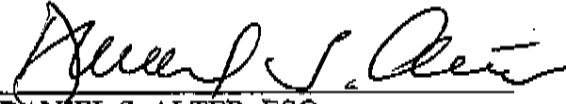
11. All copyrights and/or patents issued in connection with the ATS Software, and/or any applications submitted in connection therewith.

12. All documents discussing the sale, licensing, and/or distribution of the ATS Software, and/or any version thereof.

13. All documents relating to or discussing the organization of ATS, including but not limited to application and/or registration documents, and documents identifying and/or describing the capital structure of ATS.

14. All other documents relied upon in responding to plaintiff's interrogatories not provided in response to the above document requests.

Dated: New York, New York  
December 28, 2007



DANIEL S. ALTER, ESQ.  
ALTER & ALTER, LLP  
*Counsel for Plaintiff*  
300 East 42<sup>nd</sup> Street, 10<sup>th</sup> Floor  
New York, New York 10017  
(212) 867-7777

**DECLARATION OF ILYSSA ALTER**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
ESBIN & ALTER, LLP,

*Plaintiff,*

Docket No.

-- against --

PAUL ZAPPIER and ADVANCED TRADE  
SETTLEMENT, LLC,

*Defendants.*  
-----X

**DECLARATION OF ILYSSA ALTER IN SUPPORT OF  
PLAINTIFF'S SHOW CAUSE MOTION FOR EXPEDITED DISCOVERY**

ILYSSA ALTER, pursuant to 28 U.S.C. § 1746, declares under the penalty of perjury that the following statement is true and correct and based upon personal knowledge:

1. I am a partner in the plaintiff law firm Esbin & Alter, LLP ("E&A"), and I make this declaration in support of E&A's motion by order to show cause for expedited discovery.
2. In January 2004, E&A retained Zappier as a computer programming consultant. E&A hired Zappier to implement and modify a preexisting computer program that would provide E&A with a law office database and management application. In addition to completing other tasks, this software was intended to provide an effective and efficient way for E&A to track distressed debt trades, organize trade documents, generate status reports, and bill clients. E&A and Zappier referred to this software as the "MATTERS" program. E&A employed Zappier through October 12, 2007.
3. In the more than three and one half years that Zappier worked for E&A, he worked closely with the firm's partners, associates, paralegals, and administrative staff,

communicating regularly with them. Indeed, Zappier and E&A developed a relationship of substantial trust. He became a familiar presence in the office and was included in firm meetings and planning sessions

4. During the course of their relationship, E&A disclosed some of its most confidential procedures, documents, and general know-how to Zappier, revealing E&A's unique business practices for distressed debt trading. For example, E&A provided Zappier with highly confidential and proprietary work-flow charts, which outlined and described – on a step by step basis – the firm's methods of operation. This information included confidential procedures, techniques, and business expertise that E&A and its attorneys had developed over many years of practice. And for the sole purpose of developing MATTERS, E&A also disclosed to Zappier proprietary documents that the firm used to execute business trades.

5. The actual design process for MATTERS was really an ongoing dialogue between Zappier and E&A personnel. Firm employees would identify specific applications that would best advance the efficient operation of E&A's distressed debt practice, Zappier would program the requested applications, and firm employees would then critique his work and make constructive suggestions and further requests. In short, the entirety of Zappier's work was solely responsive to E&A's targeted requests and input.

6. In July 2007 – while still employed by E&A – Zappier formed Advanced Trade Settlement (“ATS”). Among other commercial services, ATS sells software (the “ATS Software”) that performs many of the same, unique tasks as the MATTERS program performs. For example, the ATS Software provides the user with: (1) a list of trades and their status according to client; (2) real-time trade status; (3) trade ticket information; (4) a trade combination feature; (5) trade confirmation; and (6) automated document generation. Zappier

had developed all of these program functions during his employment by E&A and in close consultation with E&A personnel.

7. On October 18, 2007, Zappier attended the Loan Syndication and Trading Association Conference ("LSTA Conference") in New York City. The LSTA Conference is a trade show and conference for businesses involved in the secondary loan industry. Representatives from numerous securities, financial products, broker-dealer and law firms, banks, and hedge funds attend the LSTA Conference – many of which are either clients or competitors of E&A.

8. At the LSTA Conference, Zappier operated a vendor's trade booth to promote ATS and its business services. While there, Zappier distributed marketing materials for the ATS Software, which he advertised to conference attendees as a computer program that, among other things, automatically tracked distress debt trades and generated related trade documentation. In addition, Zappier actually demonstrated the ATS Software to interested onlookers and potential customers.

9. Several E&A personnel (including me) also attended the LSTA Conference and saw the ATS booth. Two E&A staff members watched Zappier's ATS Software demonstration, and they were struck by the program's substantial similarity to the MATTERS program.

10. After the LSTA Conference, I spoke a representative of Merrill Lynch & Co., which is one of E&A's largest clients. He advised me that, beginning in the summer of 2007 (while Zappier was still working for E&A), Zappier had contacted executives of Merrill Lynch on several occasions. Zappier had visited and otherwise communicated with Merrill Lynch officials in an effort to sell the bank the ATS Software. According to the man with whom I spoke, Zappier had marketed the ATS Software to members of the Merrill Lynch Bank Debt

Group, as well as to the bank's information technology department. He further advised me that Merrill Lynch had told Zappier that it was interested in the ATS Software, but that the bank would have to confer with its attorneys and consider the product's compatibility with its computer systems before purchasing it.

11. I have also spoken with representatives of JPMorgan Chase & Co., which has been a past client of E&A, and is also potentially a future client of the firm. JPMorgan Chase likewise advised me that, while Zappier was still working for E&A, he marketed the ATS Software to its bank officials, and that those officials found it to be an interesting market platform.

Dated: December 28, 2007  
New City, New York

By:   
ILYSSA ALTER



**DECLARATION OF JENNIFER CRONIN**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
ESBIN & ALTER, LLP,

*Plaintiff,*

-- against --

Docket No.

PAUL ZAPPIER and ADVANCED TRADE  
SETTLEMENT, LLC,

*Defendants.*  
-----X

**DECLARATION OF JENNIFER CRONIN IN SUPPORT OF  
PLAINTIFF'S SHOW CAUSE MOTION FOR EXPEDITED DISCOVERY**

JENNIFER CRONIN, pursuant to 28 U.S.C. § 1746, declares under the penalty of perjury that the following statement is true and correct and based upon personal knowledge:

1. I am employed by Esbin & Alter, LLP ("E&A"), plaintiff in the above-captioned matter, and I make this declaration in support of E&A's motion by order to show cause for expedited discovery.
2. I am a paralegal at E&A and, as part of my responsibilities in that job, I worked closely with defendant Paul Zappier ("Zappier") over the course of several years while he provided computer programming services to the firm. Specifically, I assisted him in connection with designing the MATTERS program, which E&A uses in providing legal services in support of the purchase and sale of distressed debt obligations. The MATTERS program was designed to incorporate specific organizational ideas, workflows, and business operations that had been developed by E&A and that were disclosed to Zappier in confidence.

3. As result of my work with Zappier, and my daily use of the MATTERS program, I am extremely familiar with functions contained in the MATTERS program, as well as the functions discussed and formulated during Zappier's design work but that he did not ultimately include in MATTERS.

4. On October 18, 2007, I attended the Loan Syndication and Trading Association Conference ("LSTA Conference") in New York City. At that meeting, I saw Zappier operating a trade booth for Advanced Trade Settlement ("ATS"), which is a company that I understand Zappier owns.

5. ATS sells software that enables the user to execute and track commercial transactions for the purchase and sale of distressed debt obligations (the "ATS Software"). At the LSTA Conference, Zappier provided a public demonstration of certain aspects of the ATS Software, which I observed.

6. I have reviewed marketing materials for the ATS Software that E&A obtained. True and correct copies of these ATS Software marketing materials are annexed hereto as Exhibit A.

7. Based upon my observation of the ATS Software demonstration and the ATS Software marketing materials, I believe that the ATS Software is substantially similar to the MATTERS program. The ATS Software contains similar screens and many identical functions to those contained in MATTERS. These identical functions reflect the unique needs, intellectual property, and business practices of E&A, and were disclosed to Zappier by me and other E&A

staff. The ATS Software also provides functions that E&A staff suggested and discussed with Zappier at length, but that he never implemented in MATTERS.

Dated: December 28, 2007  
New City, New York

By:

  
JENNIFER CRONIN





### **ADVANCED TRADE SETTLEMENT**

- Distressed Loan Closings
- Document Management
- Trade Inventory Tracking
- Trade Status Reporting
- Real Time Information

Achieve your target liquidity! Now!

#### **OUR MISSION:**

- Increase liquidity in the loan market by reducing settlement times and cost!
- Provide efficient, value-added trade settlement services utilizing ultra secure, straight through processing methods.
- Simplify trade settlement by providing an integrated, collaborative, real-time environment to create, review, approve, and execute trade documents.
- Provide systems and services that are customized to meet the needs of each Client.

To arrange for a system demonstration contact Paul Zappier at 845-699-6200 or via email at [pzappier@hvc.fr.com](mailto:pzappier@hvc.fr.com)

### **THE BANK OF NEW YORK MELLON:**

#### **ASSET SOLUTIONS – CUSTOMIZED ADMINISTRATIVE AGENT SERVICES**

Our Asset Solutions Group located in Dallas Texas is the largest third-party provider of administrative agent services, with a portfolio exceeding \$50 Billion Dollars. Our experts specialize in "Club" transactions to the largest "Leveraged" transactions in the market with bank groups exceeding 750 legal entities. We also specialize in distressed loan servicing, acting as successor agent in many credit facilities. Finally, we can act as named agent or provide "Private Label" services as we do for over \$30 Billion in outstanding commitments and many arrangers.

To find out more about our services, please contact:

Kevin Miles, Vice President-Business Development  
600 East Las Colinas Blvd, Suite 1300  
Irving, Texas 75039  
972-401-8581 Tel / 214-244-7663 Cel  
[kmiles@bankofny.com](mailto:kmiles@bankofny.com)

Steve O'Neal  
Managing Director  
972-401-8516 Tel  
[soNeal@bankofny.com](mailto:soNeal@bankofny.com)

### **BLACK MOUNTAIN SYSTEMS**

Black Mountain Systems delivers superior front office software to institutional investors in corporate syndicated loans and alternative investments traditionally underserved by fixed income systems.

Our flagship product, the Loan Trade Desk, meets the needs of portfolio managers, traders, compliance officers, analysts and middle office professionals. The syndicated loan market is a unique and complex asset class for which trade order management and credit analysis is an ongoing challenge. Established by industry veterans Kevin MacDonald and Wayne Elpus, Black Mountain Systems, LLC has developed the first trade order management and credit analysis system designed specifically for syndicated loan investors and traders.



## ELECTRONIC LOAN SETTLEMENT SOLUTIONS

### OUR MISSION:

1. To increase liquidity in the loan market by reducing settlement times and cost!  
To provide efficient, value-added trade settlement services while utilizing ultra secure, straight through processing methods.
2. **Advanced Trade Settlement, LLC ("ATS")** simplifies trade settlement by providing an integrated, collaborative, real-time environment for buyers and sellers to create, review, approve, and execute secondary trade and syndication documents. **ATS** is the first automated system designed for total customer satisfaction. We are dedicated to building systems that are customized to meet the needs of each Client that signs on.

### PRODUCTS

- **ATS** offers state-of-the-art settlement products that meet the increasing demands of the loan market.
- **Distressed Trades:** **ATS** is the only electronic Distressed Trade Platform available in the market.
- **ATS** has teamed up with a reputable law firm, which specializes in the Loan Trading Market, to ensure accurate closings and document review.
- **Upstream Documents and Inventory:** **ATS** provides all upstream documentation for distressed trades. Once scanned, into the **ATS** System, upstream documents will be linked to individual trades and shall be available for the buyer to review online or print as needed. As each upstream tranche is allocated, **ATS** will maintain inventory available to be transferred, i.e. the facility balance that has not been previously allocated to existing open trades and shall further provide real-time inventory reports on a post-settlement basis.
- **Status Reporting:** Real time information and reporting is available on a 24/7 basis from anywhere the internet can be accessed.
- **Custom Settlement:** **ATS** works directly with all Clients to facilitate specialized Bank Debt Settlement, i.e. Block Transfers among funds, Netting Agreements, Multilaterals, etc.
- **Credit Document Posting:** **ATS** provides for its Clients, a comprehensive document management feature that will allow access, when permitted, to all settlement documents including any credit documents obtained during settlement.
- **Online Legal Review & Negotiating:** Attorneys could view and negotiate the purchase & sale agreement and approve on the fly, keeping track of all changes.

## **SERVICES**

- **Rapid Closings:** The ATS System enables Clients to close trades on time by using best practices to facilitate settlement in a timely manner.
- **Customer Satisfaction:** ATS employs experienced closers, Global Administrators and IT staff that will work directly with Clients and their Counterparties to ensure rapid closings.
- **Real Time Trade Status:** Easy time line status to allow managers and closers to communicate. Keeps all status history related to trades. All parties are automatically notified when the trade moves through the trade life cycle.

## **CUSTOM DEVELOPMENT**

- ATS provides, at no extra cost, custom system development. Our developers work directly with each Client to ensure that the ATS application performs to the Client's specifications. Additionally, ATS provides consulting services to all Clients that need help integrating and uploading their data from the ATS database.

## **INTERFACES**

- ATS uses open source technology that is designed to import and export to back office systems. ATS has the ability to connect to systems such as Loan IQ, Wall Street Office, and any custom Client in-house systems.

## **TRADE DOCUMENT MANAGEMENT**

- ATS uses the most secure, state-of-the-art infrastructure available in today's market. With multiple secure data centers, down time is virtually eliminated.
- All data is stored, backed up and supported by a full disaster recovery program.
- ATS provides 24/7 access to all documents related to the trades. The final closing documents can be down loaded, as required, for any Client that needs to warehouse the originals.

## **REAL TIME NOTIFICATION**

- ATS automatically notifies trade members and managers, as required, of each state the trade moves through. Each user has a set of preferences that can be set, whether you are a manager or assistant. The system will recognize that the user is part of a trade routing and automatically send notifications of the event.

## **CONTACT INFORMATION**

- **Consulting Services:** ATS personnel are available during regular business hours for questions about any products or services we offer. Additionally, our developers are available for consulting services related to any custom requirements. Call or Email Paul Zappier anytime to set up a live demo or to ask questions:
  - Phone 845-699-6200
  - Email: [pzappier@hvc.rr.com](mailto:pzappier@hvc.rr.com)
  - Address: 11 Kings Drive, Middletown, NY 10941



## THE ATS APPLICATION AT A GLANCE:

The following screen shots show some of the forms and functions that are currently available in the ATS system application. These are user friendly forms that display all the required information related to the function being used. The users can easily navigate to exactly where they want to be, with minimum tabs and menus. And perform the function without switching to another screen to find contact data.

### MAIN TRADE VIEW

- This form opens up to the Client's trades. There is no need to search around to find your open trades. The system knows who is logged in and displays all open trades, which can be sorted as required. All functions are available from this form, no hidden menus or tabs, which promotes a very short learning curve.

		Main Trade View		Advanced Trade Settlement, LLC	
Open Trades					
60179	Loan Buyers Management, LLC	Advanced Trade Settlement, LLC	Nexcel Finance Company	Paul Zappier	10/30/07
60178	Loan Buyers Management, LLC	Advanced Trade Settlement, LLC	Nexcel Finance Company	Paul Zappier	10/30/07
60177	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company		10/30/07
60176	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60175	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60174 F	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60173	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60172	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60171	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60170	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60169	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60168	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07
60167 F	Advanced Trade Settlement, LLC	Loan Buyers Management, LLC	Nexcel Finance Company	Paul Zappier	10/17/07

**EASY TRADE TICKET ENTRY**

- This trade ticket is simple to understand and very user friendly. It allows the user to enter a trade without having to manually enter specific data, all fields are supported by drop down lists that auto fill the fields ensuring accurate entry.

<b>Advanced Trade Settlement, LLC</b> Principal <b>Loan Buyers Management, LLC</b> Principal		<b>Nexiel Finance Company</b> 5500 11/16/2007 11:15:48 AM USD, \$50,000,000.00 100	
Parties shall use a purchase and sale agreement substantially similar to the LSTA form of Purchase and Sale Agreement (Secondary Assignments or Secondary Assignment), whichever is applicable, taking into account related predecessor documents.		Assignment Yes	
Parties shall use a purchase and sale agreement substantially similar to the LSTA form of Purchase and Sale Agreement (Secondary Assignments or Secondary Assignment), whichever is applicable, taking into account related predecessor documents.		In the event that Buyer and Seller are unable to close this transaction as an assignment, each of Buyer and Seller shall use commercially reasonable efforts (subject to the terms of the Credit Agreement) to settle this transaction as a Participation.	
Parties shall use a purchase and sale agreement substantially similar to the LSTA form of Purchase and Sale Agreement (Secondary Assignments or Secondary Assignment), whichever is applicable, taking into account related predecessor documents.		The assignment documentation with respect to the Debt shall contain Seller representations with respect to this, principal amount and commitments that will be limited by reference to the rights transferred and representations made to Seller from the immediate prior sellers.	
Parties shall use a purchase and sale agreement substantially similar to the LSTA form of Purchase and Sale Agreement (Secondary Assignments or Secondary Assignment), whichever is applicable, taking into account related predecessor documents.		This transaction shall also be subject to the successful completion of the purchase by Seller of the Purchase Amount of the Debt to be sold to Buyer hereunder.	
Parties shall use a purchase and sale agreement substantially similar to the LSTA form of Purchase and Sale Agreement (Secondary Assignments or Secondary Assignment), whichever is applicable, taking into account related predecessor documents.		This transaction shall also be subject to the successful completion of the sale by Buyer of the Purchase Amount of the Debt to be purchased from Seller hereunder.	

## TRADE ENTRY RULES

- **ATS provides warning messages that guide the users when entering tranche amounts. The system will monitor all credit information and direct the user to what credit rules are being violated.**



## QUICK CONFIRMATION APPROVAL

- **ATS provides real time routing and notification.** This form allows the closers to instantly see all contacts for each buyer and seller; route the proper signatory or contact, related to the trade; then circulate the draft documents with email notification as required.

[illegible]

## USER FRIENDLY DOCUMENT APPROVALS

- Instant previews and signatory information is displayed to allow the users to page through the draft document before approvals. The Approval Managers will be able to affix their pre-loaded scanned signature to the closing documents. Predefined signatory requirements are added to the system to allow multiple signatories as required for each Client. Buyer and Seller will be notified when the documents are approved.

[illegible]

## LSTA DISTRESSED TRADE CONFIRMATION

The Medical Society of the District of Columbia  
 Attention: Secretary  
 Phone No.: (202) 638-2552  
 Facsimile: (202) 638-6104

From: A. Howard Hyde Bell, Jr.  
 Location: Fort Knappe  
 Navy No: 47-407-4209  
 File No: 47-407-4010

**DATE 11/27/1994**

We are pleased to confirm the following information, subject to the Standard Terms and Conditions for General Trade Customers (the "Standard Terms and Conditions") published by The Long Beach Industries and Trading Association, Inc. (the "LBTIA") as of September 2001, and 2. which Standard Terms and Conditions are incorporated by this reference. The parties hereto shall be bound by the terms and conditions set forth in the Confirmation, subject only to those two provisions in the Standard Terms and Conditions which are hereby waived by the parties.

Trade Date: 10/20/2007

**Editor:** MARKET MOVERS CAPITAL  
MANAGEMENT

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BY: ADVANCED TRADE SETTLEMENT, LLC

**Editorial Board** **Chairman**

**Credit Agreement:** Amended as a Revised Credit Agreement dated as of November 9, 1995 among MetLife Credit Acquisition, Inc., National Finance Company and the other financial institutions party thereto, the Lenders party thereto, Treasury Department (T.D.) Inc., as Administrative Agent and The Citicorp Mortgage Bank as Collateral Agent.

**Part 1: Answer 1/**  
**Type: FT/IR:**

**Form of the value**☒ Assignment ☐ Participation ☐ Submission ☐ None

### Background and Data

### ■ 4.6 4-Cell 2D Array



## PURCHASE AND SALE AGREEMENT

- ATS provides a method for the closers to quickly draft the PSA agreement and establish the upstream trades as required. The PSA will then be routed to the clients counsel and opposing counsel for review. At anytime, the reviewing Attorneys can modify the provisions of the PSA Agreement on line, while the system tracks each change. When complete, the Attorneys can review the changes and immediately approve the document eliminating the need for faxing and phone calls.

Loan Buyers Management, LLC

Advanced Trade Settlement, LLC

Trade Summary

Trade ID	Trade Date	Trade Amount
102	10/30/2007	\$4,000,000.00

Trade Details

Trade Status

Trade History

Upstream chains are easily defined by pull down controls and auto filled text:

UpstreamAssignment

Trade ID	Trade Date	Trade Amount	Trade Description
2 60097	9/6/2007	Advanced Trade Settlement, LLC	Market Movers Capital Management
103 2 60100	9/6/2007	Market Movers Capital Management	Advanced Trade Settlement, LLC
100 1 60096	9/6/2007	Market Movers Capital Management	Advanced Trade Settlement, LLC

Reference is made to the trade dated 9/6/2007 Between As Seller and as Buyer related to the facility Revolver for the amount of \$5,000,000.00 USD

Record: 14 of 3

**On-Line Legal review and Negotiating:** This screen shows the forms used to allow the Clients legal department and opposing counsel to markup and approve the changes to the Further provisions (Section 26) –On the fly. At any time, the Clients and Attorneys can see the history of changes and the person who made the change.

01/23/2007

01/23/2007

Small Finance Company

### SECTION 26 (FURTHER PROVISIONS)

1. Seller and Buyer agree that Section 4.1(a) of the Standard Terms shall be deleted in its entirety and replaced with the following:

Other than the Bankruptcy Case and the proceedings thereunder, the related case in the High Court of Justice, Chancery Division, Companies Court (the "London Case") referenced in a certain Cross-Border Insolvency Protocol dated and of October 3, 2004, and the in Edinburgh, No. P030032 relating to Tati Investments Limited (the "Edinburgh Case"), no proceedings are (i) pending against Seller or (ii) to the best of Seller's knowledge, threatened against Seller before any relevant Governmental Authority that, in the aggregate, will materially and adversely affect (A) the Transferred Rights or Assumed Obligations or (B) any action taken or to be taken by Seller under this Agreement.

2. Seller and Buyer agree that Section 4.2(a) of the Standard Terms shall be deleted in its entirety and replaced with the following:

Seller has not received any written notice of any claim or liability available in the Bankruptcy Case, the London Case, the Edinburgh Case or otherwise, that (i) any payment or other transfer made to or for the account of Seller from or on account of Debtor or any obligor under the Transferred Rights is or may be void or voidable as an actual or constructive fraudulent transfer or as a preferential transfer or (ii) the Transferred Rights, or any portion of them, are void, voidable, unenforceable or subject to any claimant.

3. Seller and Buyer agree that the following provision shall be added to Section 3.1, Buyer's Representations and Warranties:

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The following text was removed ... the Court of Session

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Seller has not received any written notice of any claim or liability available in the Bankruptcy Case, the London Case, the Edinburgh Case or otherwise, that (i) any payment or other transfer made to or for the account of Seller from or on account of Debtor or any obligor under the Transferred Rights is or may be void or voidable as an actual or constructive fraudulent transfer or as a preferential transfer or (ii) the Transferred Rights, or any portion of them, are void, voidable, unenforceable or subject to any claimant.

3. Seller and Buyer agree that the following provision shall be added to Section 3.1, Buyer's Representations and Warranties:

## REAL TIME STATUS REPORTING

- Each member of the trade can enter information under each day at any time during the life cycle of the trade. Username and time stamp is automatically added after each status entry input. This is a comprehensive account of all activities. This time line status can be printed on the fly or exported to any format for reporting.

[illegible]